

UNITED STATES DISTRICT COURT

for the
Western District of Washington

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CLERK U.S. DISTRICT COURT WESTERN DISTRICT OF WASHINGTON AT TACOMA	
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In the Matter of the Search of
(Briefly describe the property to be searched
or identify the person by name and address)
Information Associated with Email Accounts
that are Stored at the Premises Controlled by
Google, Inc. and Microsoft Corporation

Case No.

MJ20-5058

APPLICATION FOR A SEARCH WARRANT

I, a federal law enforcement officer or an attorney for the government, request a search warrant and state under penalty of perjury that I have reason to believe that on the following person or property (identify the person or describe the property to be searched and give its location):

See Attachment A, incorporated herein by reference.

located in the Northern and Western District of California and Washington, there is now concealed (identify the person or describe the property to be seized):

See Attachment B, attached hereto and incorporated by reference herein.

The basis for the search under Fed. R. Crim. P. 41(c) is (check one or more):

- ☒ evidence of a crime;
☒ contraband, fruits of crime, or other items illegally possessed;
☒ property designed for use, intended for use, or used in committing a crime;
☐ a person to be arrested or a person who is unlawfully restrained.

The search is related to a violation of:

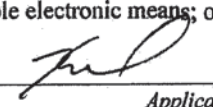
Code Section	Offense Description
18 U.S.C. § 2241(c)	Aggravated Sexual Abuse of a Child under 12
18 U.S.C. § 2244(a)(5)	Abusive Sexual Contact of a Child under 12
18 U.S.C. § 2243(a)(1)	Sexual Abuse of a Minor

The application is based on these facts:

- ☒ See Affidavit of Special Agent Kyle McNeal, FBI, attached hereto and incorporated by reference herein.

- ☐ Delayed notice of _____ days (give exact ending date if more than 30 days: _____) is requested under 18 U.S.C. § 3103a, the basis of which is set forth on the attached sheet.

Pursuant to Fed. R. Crim. P. 4.1, this warrant is presented: ☒ by reliable electronic means; or: ☐ telephonically recorded.

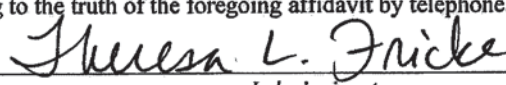

Applicant's signature

KYLE MCNEAL, Special Agent

Printed name and title

- ☐ The foregoing affidavit was sworn to before me and signed in my presence, or
☒ The above-named agent provided a sworn statement attesting to the truth of the foregoing affidavit by telephone.

Date: 03/17/2020


Judge's signature

City and state: Tacoma, Washington

THERESA L. FRICKE, United States Magistrate Judge

Printed name and title

ATTACHMENT A
Place to Be Searched

The electronically stored data, information and communications contained in, related to, and associated with, including location history data, sourced from methods including GPS, Wi-Fi, and Bluetooth, and all preserved data associated with:

1. **Tarrus1977@gmail.com (Google); and**

2. **Tarrus1977@hotmail.com (Microsoft)**

as well as all location history data and other subscriber and log records associated with the SUBJECT ACCOUNTS, to include the IIS (Internet Information Services) logs associated with any associated Google Drive accounts, which are located at premises owned, maintained, controlled or operated by Google, Inc., an email provider headquartered at 1600 Amphitheatre Parkway, Mountain View, California or at Microsoft, Inc., an Internet Services Provider headquartered at One Microsoft Way, Redmond, Washington 98052.

**ATTACHMENT B
ITEMS TO BE SEIZED**

I. Items to be to be Provided for Search

All electronically stored information and communications contained in, related to, and associated with, including all preserved data associated with, the following
SUBJECT ACCOUNTS:

1. **Tarrus1977@gmail.com (Google); and**
2. **Tarrus1977@hotmail.com (Microsoft)**

including any and all information related to preservation record numbers 2501185 and 3525463 (Google Inc.) and GCC-1386634-F4D6S3 (Microsoft Inc.) as well as all subscriber records associated with the SUBJECT ACCOUNTS, including (1) name; (2) address; (3) records of session times; (4) length of service (including start date) and types of services utilized; (5) telephone or instrument number or other subscriber number or identity, including any temporarily assigned network address such as internet protocol address; (6) account log files (login IP address, account activation IP address, and IP address history); (7) detailed billing records/logs; (8) means and source of payment; (9) lists of all related accounts; (10) all email content; (11) all other account information; (12) all other profile information; (13) all contact lists; (14) all calendar content; and (15) any and all records of communications between Google, Microsoft and any other person about issues relating to the SUBJECT ACCOUNT, such as technical problems, billing inquiries, or complaints from other users about the specified account. This is to include records of contacts between the subscribers and the providers' support services, as well as records of any actions taken by the provider or subscriber as a result of the communications. All electronically stored information location history data, sourced from methods including GPS, Wi-Fi and Bluetooth. All items shall be provided in Universal Time Coordinated (UTC) and disclosed to the government within fourteen (14) days of service of this warrant.

1 **II. Items to be Seized**

2 From all electronically stored information and communications contained in,
3 related to, and associated with, including all preserved data associated with, the
4 SUBJECT EMAIL ACCOUNTS listed in Attachment A, all information described below
5 that constitutes fruits, evidence, and instrumentalities of the crimes of 18 U.S.C. §§
6 2241(c)(Aggravated Sexual Abuse of a Child under 12), 2244(a)(5)(Abusive Sexual
7 Contact of a Child under 12), 2243(a)(1)(Sexual Abuse of a Minor), 3261 (Military
8 Extraterritorial Jurisdiction Act--"MEJA") and 3238 (MEJA Venue), including any and
9 all of the following records:

- 10 (a) Message header data required to trace any user associated with the
11 account and its access;
- 12 (b) Subscriber details provided by the user when creating the account;
- 13 (c) IP log-on data for access to the accounts;
- 14 (d) Subscriber information, including names, addresses, dates of birth, contact
15 details and any other personal information supplied by the subscriber such
16 as the means and source of payment for any service;
- 17 (e) User connection information, including session times and durations and IP
18 addresses assigned during the relevant period;
- 19 (f) All contact lists, address lists, buddy lists or other such data associated with
20 the account;
- 21 (h) All opened or unopened communications in the SUBJECT ACCOUNTS
22 between April 5, 2019 through March 10, 2020;
- 23 (i) All photographs and images found in the account, including IP data and any
24 other traceable details of any users who have accessed or downloaded the
25 photographs and images; and
- 26 (j) All location history data, sourced from methods including GPS, Wi-Fi, and
27 Bluetooth between April 5, 2019 through March 10, 2020.
- 28

AFFIDAVIT OF KYLE MCNEAL

STATE OF WASHINGTON)
) ss
COUNTY OF PIERCE)

I, Kyle McNeal, having been duly sworn, state as follows:

I. INTRODUCTION AND AGENT BACKGROUND

1. I am a Special Agent with the Federal Bureau of Investigation (FBI), assigned to the Special Agent in Charge in Seattle, Washington. I have been an Agent with the FBI since April 2011. My training at the FBI Academy in Quantico, Virginia, included courses in law enforcement techniques, federal criminal statutes, conducting complex criminal investigations, physical and electronic surveillance techniques, and the execution of search warrants. During my employment as a law enforcement officer, I have attended periodic seminars, meetings, and continued training.

2. As part of my duties as an FBI Special Agent, I investigate criminal violations relating to child exploitation and child pornography. I have received training in the area of child pornography and child exploitation. I have also participated in the execution of numerous search warrants involving investigations of child exploitation and/or child pornography offenses.

3. I work with other federal, state, and local law enforcement personnel in the investigation and prosecution of crimes involving the sexual exploitation of children. I make this Affidavit in support of an application for search warrants for information associated with certain accounts that are stored at premises owned, maintained, controlled, or operated by: (1) Google Inc., an Internet Service Provider headquartered at 1600 Amphitheatre Parkway, Mountain View, California 94043, and (2) Microsoft, Inc., an Internet Services Provider headquartered at One Microsoft Way, Redmond, Washington 98052, pursuant to 18 U.S.C. §§ 2703(a), 2703(b)(1)(A) and 2703(c)(1)(A) to require Google and Microsoft to disclose to the government records and other

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1 information in their possession pertaining to the subscriber or customer associated with
2 the following accounts (SUBJECT EMAIL ACCOUNTS), as more fully described in
3 Attachment A of this affidavit, including the contents of communications contained
4 therein:

5 A. **Tarrus1977@gmail.com (Google)(SUBJECT GOOGLE**
6 **ACCOUNT); and**

7 B. **Tarrus1977@hotmail.com (Microsoft)(SUBJECT MICROSOFT**
8 **ACCOUNT).**

9 4. This also includes any and all information related to preservation record
10 numbers 2501185 and 3525463 (Google Inc.) and GCC-1386634-F4D6S3 (Microsoft
11 Inc.) as well as all other subscriber and log records associated with the account. I make
12 this request to search the above accounts for evidence, fruits, and instrumentalities of
13 violations of 18 U.S.C. §§ 2241(c)(Aggravated Sexual Abuse of a Child under 12),
14 2244(a)(5)(Abusive Sexual Contact of a Child under 12), 2243(a)(1)(Sexual Abuse of a
15 Minor), 3261 (Military Extraterritorial Jurisdiction Act--"MEJA") and 3238 (MEJA
16 Venue). This is a court of competent jurisdiction pursuant to 18 U.S.C. §2703(d).

17 5. The facts set forth in this Affidavit are based on the following: my personal
18 knowledge; knowledge obtained from other individuals during my participation in this
19 investigation, including other law enforcement officers; interviews of witnesses; my
20 review of records related to this investigation; communications with others who have
21 knowledge of the events and circumstances described herein; and information gained
22 through my training and experience. Because this Affidavit is submitted for the limited
23 purpose of establishing probable cause in support of the application for these search
24 warrants, it does not set forth each and every fact that I or others have learned during the
25 course of this investigation. I have set forth only the facts that I believe are relevant to
26 the determination of probable cause to believe that evidence, fruits, and instrumentalities
27 of violations of 18 U.S.C. §§ 2241(c)(Aggravated Sexual Abuse of a Child under 12),
28 2244(a)(5)(Abusive Sexual Contact of a Child under 12), 2243(a)(1)(Sexual Abuse of a

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1 Minor), 3261 (Military Extraterritorial Jurisdiction Act--"MEJA") and 3238 (MEJA
2 Venue) will be found in the SUBJECT EMAIL ACCOUNTS.

3 II. JURISDICTION

4 6. This Court has jurisdiction to issue the requested warrant because it is "a
5 court of competent jurisdiction" as defined by 18 U.S.C. §§ 2711(3)(A)(i); 2703(a),
6 (b)(1)(A), & (c)(1)(A). Specifically, the Court is "a district court of the United States . . .
7 that has jurisdiction over the offense[s] being investigated." 18 U.S.C. § 2711(3)(A)(i).
8 Federal investigative and charging venue under MEJA lies in 18 U.S.C. § 3238. Where
9 an offender has not been arrested or "brought into any district, an indictment or
10 information may be filed in the district of the last known residence of the offender." *Id.*
11 During an interview with agents, Nancy Elliott recalled that the last residential address
12 for ELLIOTT and the family in the United States before moving to Japan was 2211 156th
13 St. Ct. E., Tacoma, Washington 98445. This location is located with the Western District
14 of Washington.

15 III. SUMMARY OF INVESTIGATION

16 7. On or On April 5, 2019, the FBI Tacoma Resident Agency was notified
17 from the United States Army Criminal Investigation Division Command (CID) Camp
18 Zama, Japan regarding the sexual abuse of a minor. MV1 is currently a 13 year-old girl
19 born on September 12, 2006.

20 8. Camp Zama CID was notified by faculty at John O. Arnn Elementary
21 School, Camp Zama, Japan, that MV1 may have been sexually abused by her father.
22 MV1's teacher, Ms. Lopes, became aware of the incident when associates of MV1
23 informed her of the allegations. Ms. Lopes then reported the information to the school's
24 administration who then passed it on to Camp Zama CID.

25 9. During the investigation, FBI Special Agent Kyle McNeal interviewed
26 Robin Lopes at John O. Arnn Elementary School, Camp Zama, Japan. In the interview.
27 Ms. Lopes provided a poem to SA Kyle McNeal entitled "The Surprise" that MV1 had
28 written:

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1
2 A door opens to a child room, When [sic] it's very dark, a father comes in
3 and wakes the child and takes them downstairs, the whole house is sleeping
4 and so are the family members, the father and the child watch TV until it
5 gets a little late, the father had a surprise for the child and it really did
6 surprise [sic] them, and so then and nothing more the surprise [sic] soon
7 began.

8 10. On April 3, 2019, CID Special Agents interviewed MV1 who confirmed
9 ELLIOTT sexually assaulted her on several occasions. The first instance was
10 approximately a year ago, the last was about two days prior to the interview. MV1
11 disclosed that ELLIOTT would make her perform oral sex upon him and make her touch
12 his genitals. ELLIOTT digitally penetrated MV1 and performed oral sex upon her.
13 Based on the context of the conversation, it is believed that ELLIOTT attempted to
14 penetrate MV1's vagina with his penis. MV1 described this as being painful. According
15 to MV1, these incidents occurred in her home after Mrs. Elliott went to sleep.
16 Additionally, MV1 described being sexually abused at the "Golf Hotel." In a later
17 contact, MV1 positively identified images of the Hotel Golf located in Yamato City,
18 Kanagawa. MV1 further recalled that ELLIOTT abused her, on at least one occasion,
19 while using a device that resembled an electric toothbrush. MV1 was unable to further
20 describe the toothbrush-like object but stated that it was pink in color. ELLIOTT
21 disclosed to MV1 that he had been sexually abused as a child and that he had a sickness.
22 ELLIOTT told her if he did it again, she should tell her mother, Mrs. Elliott.

23 11. On April 3, 2019, CID interviewed Mrs. Elliott, who provided a video-
24 recorded statement wherein she stated she had no prior knowledge of any sexual actions
25 between ELLIOTT and her daughter, MV1. Mrs. Elliott stated ELLIOTT told her he was
26 sexually assaulted by family members as a child, although she did not know any
27 additional details. Mrs. Elliott acknowledged that they did have vibrators in the home,
28 but she had no knowledge of MV1 ever using one.

1 12. On April 3, 2019, CID interviewed ELLIOTT, who provided a video-
2 recorded sworn statement wherein he denied MV1's allegations in their entirety.
3 ELLIOTT did acknowledge that he frequently hugged MV1 and may have, on occasion
4 and unintentionally, grazed her breasts.

5 13. ELLIOTT admitted he was molested as a boy by young adult males. He
6 stated he used sexual toys, including vibrators, with Mrs. Elliott, but never with MV1. He
7 stated the type of vibrators they have would be too much for a little girl. ELLIOTT did
8 acknowledge that he cleaned MV1 while Mrs. Elliott was present on one occasion
9 approximately four years earlier because she was stinky. ELLIOTT stated he spanked
10 MV1 a week or so ago for lying about a song and a Kindle that she was not supposed to
11 have. ELLIOTT stated that pornography periodically appeared on the television while
12 they were watching television or anime, but he quickly turned it off. ELLIOTT claimed
13 that he carefully monitored the children's television usage.

14 14. On April 3, 2019, CID collected a sheet and a rug from MV1's room as
15 well as a pink vibrator from Mrs. Elliott's room. While Mrs. Elliott and MV1 showed
16 CID around the house, and when one agent briefly explained DNA to MV1, she
17 spontaneously uttered that CID should collect the rug from the floor in her room.

18 15. On April 3, 2019, Sarah K. Abner conducted a Sexual Assault Forensic
19 Examination. During the exam, MV1 told Abner that "it's happened a lot of places... my
20 room, the last time, sometimes downstairs, my dad's room or hotels... twice in hotels."
21 MV1 further stated, "I don't know if I hurt my dad, but I did try to push him away."
22 When asked if there was anything else about the incident, MV1 remembered "well I spit
23 some stuff on the floor...it wasn't a lot like the time he had stuff come out all over my
24 leg...that was a long time ago though."

25 16. Nurse Abner's examination revealed a mucous type fluid in MV1's vaginal
26 area. Nurse Abner also observed redness with tenderness to the labia minora, posterior
27 fourchette and hymen. These findings are consistent with the ELLIOTT's attempts to
28 vaginally penetrate MV1. MV1 was tested at the Camp Zama Medical Clinic for Sexually

1 Transmitted Diseases (STD's) which came back positive for Chlamydia. MV1 denied
2 having sexual contact with anyone other than ELLIOTT.

3 17. On or about February 21, 2020, Mrs. Elliott underwent a Chlamydia
4 trachomatis IgG test. The IgG antibody detection is a marker for a Chlamydia positive
5 immune response, either for current, chronic, or past infections. Based on the results of
6 the test, it suggests that Mrs. Elliott contracted Chlamydia at some point.

7 18. The FBI Laboratory tested the SANE kit and detected ELLIOTT's DNA on
8 the following swabs: (1) anal/perineal; (2) left breast swab; and (3) right breast swab.

9 19. On or about April 13, 2019, ELLIOTT departed Japan through the Narita
10 airport in a failed attempt to visit the Philippines. US Officials successfully convinced
11 Philippine authorities to deny ELLIOTT access to the country after which he returned to
12 Japan.

13 20. On April 18, 2019, and contrary to the explicit recommendation of the U.S.
14 Attorney's Office, the Army obtained a Commander's Authorization to collect a Sexually
15 Transmitted Disease Test and Buccal Swab from the Defendant. Later that day, CID
16 agents escorted the Defendant to a Camp Zama health clinic. Once notified of the search
17 authorization, ELLIOTT refused to comply and departed the installation.

18 21. On or about April 19, 2019, ELLIOTT was scheduled to depart Japan for
19 Hawaii. The Hawaiian USAO was prepared to interdict ELLIOTT upon his arrival and
20 execute a search warrant for his digital devices. Instead, ELLIOTT sent a message to
21 Nancy Elliott claiming that an accident on the train had forced him to miss his flight.
22 ELLIOTT apologized and told Nancy Elliott that he would attempt to get on the flight the
23 following day. Instead of traveling to Hawaii as planned, financial records indicated that
24 ELLIOTT purchased a flight on Air Asia (KH) for \$251.66 in addition to a \$3.00 Inflight
25 Internet Service fee. ELLIOTT told Nancy Elliott that he was in Korea, but (KH) is the
26 abbreviation for Cambodia.


27 22. ELLIOTT's current whereabouts are unknown although he has had email
28 communications with Nancy Elliott. Nancy Elliott provided consent for SA McNeal to

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1 monitor her email communications with ELLIOTT. The following communications took
2 place between ELLIOTT and Nancy Elliott.

3 **Email from TARRUS1977@GMAIL.COM**

4  **TEE Elliott** <tarrus1977@gmail.com> Aug 19, 2019, 1:02 PM ☆ ↩ ⋮
5 to me
6 I'm ok but I miss you and the kids so much. I can't take back the mistakes I've made but I want you to know I'm sorry. I've found a church to worship and a good
7 pastor. I'm so sorry for everything I've put the family through. As for where I am, I'm in a safe place but I've put myself in exile but I'm safe. I've found a small
8 place but I don't make much money but I have a roof over my head and I pray for you and the kids often.
9 I've reflected on my mistakes with you, our kids and the family. God will continue to work on me and give comfort to you, Nina, and James. Please let them know
10 I love them so much and I'm sorry I've put them through this too. I wasn't a good father and husband so God has taken you all from me but I pray that His will is
11 for me to remain close to Him. I wish I could be with you but I know it's not possible anymore.
12 I'm sorry I didn't see the blessing I had in my life. They say you never miss your water until your well runs dry. It's so true. I love you, I love the kids and thank you
13 for caring.
14 ***

15 (no subject) 📧 📧

16  **TEE Elliott** <tarrus1977@gmail.com> Fri, Sep 6, 11:51 AM ☆ ↩ ⋮
17 to me
18 Please tell James Happy Birthday and I'm sorry I can't be with him for his 19th. I'm sorry to you and Nina too.
19 I know you said that it was unforgivable but I hope you can someday.

20 ↩ Reply ➡ Forward

21 **Email from TARRUS1977@HOTMAIL.COM**

22 ----- Forwarded message -----
23 From: **TARRUS1977@HOTMAIL.COM**
24 Date: Wed, Nov 27, 2019 at 09:52
25 Subject: I'm sorry
26 To: Nancy Elliott <nancyean2014@gmail.com>

27 To whom it may concern, this will be my final to you. Everything I've done I'm sorry I will live my life tonight and I know it will disappoint some of you and others will feel
28 relieved. Goodbye

23. On November 27, 2019, SA McNeal received the email noted above from
Nancy Elliott. Emergency Disclosure requests were sent to Google for records pertaining
to the whereabouts of ELLIOTT. Based on the IP address provided by Google on or
about November 27, 2019, it appeared that ELLIOTT was in the Philippines.

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24. Nancy Elliott has confirmed that both Tarrus1977@gmail.com and Tarrus1977@hotmail.com belong to ELLIOTT. Both prior to and since the allegations as demonstrated by the identified messages, Nancy Elliott has received numerous messages from the SUBJECT ACCOUNTS that she believes to have come from ELLIOTT.

25. At all relevant times, Nancy Elliott was a Department of Defense civilian employee residing overseas. As such, ELLIOTT was a dependent of Nancy Elliott and accompanying the Armed Forces overseas. ELLIOTT's alleged offenses against MV1 are subject to prosecution in federal district court for crimes committed outside the United States as if the offenses were committed within the special maritime and territorial jurisdiction of the United States. *See* MEJA, 18 U.S.C. §§ 3261-3267.

IV. SUBJECT'S USE OF ELECTRONIC COMMUNICATION SERVICES

26. In my training and experience, and based upon the training and experience of other FBI special agents with whom I have consulted, I have learned that Google and Microsoft ("Providers") make a variety of online services available, including electronic mail ("email") access, to the general public. These Providers manage email accounts at the domain names "gmail.com" and "Hotmail.com" like the SUBJECT EMAIL ACCOUNTS. Subscribers obtain an account by registering with the Providers. During the registration process, the Providers asked subscribers to provide basic personal information. Therefore, the Providers' computers are likely to contain stored electronic communications (including retrieved and unretrieved email for the Providers' subscribers) and information concerning subscribers and their use of the Providers' services, such as account access information, email transaction information, and account application information. In my training and experience, such information may constitute evidence of the crimes under investigation because the information can be used to identify the account's user or users.

27. In general, an email message that is sent to the Providers' subscriber is stored in the subscriber's "mail box" on the Providers' servers until the subscriber deletes the message. If the subscriber does not delete the message, the message can remain on

1 the Providers' servers indefinitely. Even if the subscriber deletes the message, it may
2 continue to be available on the Providers' servers for a certain period of time.

3 28. When the subscriber sends an email message, it is initiated at the user's
4 computer, transferred via the Internet to the Providers' servers, and then transmitted to its
5 end destination. The Providers often save a copy of the email message sent. Unless the
6 sender of the message specifically deletes the message from the Providers' server, the
7 message can remain on the system indefinitely. Even if the sender deletes the email
8 message, it may continue to be available on the Providers' servers for a certain period of
9 time.

10 29. A sent or received email message typically includes the content of the
11 message, source and destination addresses, the date and time at which the message was
12 sent, and the size and length of the email message. If an email user writes a draft
13 message but does not send it, that message may also be saved by the Providers but may
14 not include all of these categories of data.

15 30. A Providers' subscriber can also store files, including email messages,
16 address books, contact or buddy lists, calendar data, photographs, and other files, on
17 servers maintained and/or owned by the Providers. In my training and experience,
18 evidence of who was using an email account may be found in address books, contact or
19 buddy lists, email messages in the account, attachments to email messages, including
20 photographs and files, and photographs and files stored in relation to the account.

21 31. Subscribers to the Providers might not store on their home computers or
22 other digital devices copies of the email messages stored in their Providers account. This
23 is particularly true when they access their Providers' account through via the internet, or
24 if they do not wish to maintain particular email messages or files in their residence.

25 32. In general, the Providers ask each of their subscribers to supply certain
26 personal identifying information when registering for an email account. This information
27 can include the subscriber's full name, physical address, telephone numbers and other
28 identifiers, alternative email addresses, and, for paying subscribers, means and source of

1 payment (including any credit or bank account number). In my training and experience,
2 such information may constitute evidence of the crimes under investigation because the
3 information can be used to identify the account's user or users.

4 33. These email Providers typically retain certain transactional information
5 about the creation and use of each account on their systems. This information can
6 include the date on which the account was created, the length of service, records of log in
7 (i.e., session) times and durations, the types of service utilized, the status of the account
8 (including whether the account is inactive or closed), the methods used to connect to the
9 account (such as logging into the account via the Providers' website), and other log files
10 that reflect usage of the account. In addition, these email Providers often have records of
11 the IP address used to register the account and the IP addresses associated with particular
12 logins to the account. Because every device that connects to the Internet must use an IP
13 address, IP address information can help to identify which computers or other devices
14 were used to access the SUBJECT EMAIL ACCOUNTS.

15 34. In some cases, email account users will communicate directly with the
16 Providers about issues relating to the account, such as technical problems, billing
17 inquiries, or complaints from other users. The Providers typically retain records about
18 such communications, including records of contacts between the user and the Providers'
19 support services, as well records of any actions taken by the provider or user as a result of
20 the communications. In my training and experience, such information may constitute
21 evidence of the crimes under investigation because the information can be used to
22 identify the account's user or users.

23 35. I know that Google offers approximately 15 GB of free storage space per
24 email address. This allows users to store a large amount of emails and other related
25 content. Google Drive (formerly known as Google Docs) is a free online "cloud" storage
26 that allows users to share files from any device. With Google Drive, a user can share
27 files in lieu of sending email attachments. Picasa is a photo-sharing website owned by
28 Google that allows users to post and share images with other individuals. Google also

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1 offers other distinct services, including video chat and Google+ Photos. All of these
2 services are very useful tools that the user of the Google account could be using to store
3 and share images of child pornography. Google also allows its users, through its mobile
4 services, to access their email account(s), stored images, and other content at any time
5 from any computer with Internet access.

6 36. I know that Microsoft manages hotmail accounts. I know that Microsoft
7 offers new users approximately 15 GB of free storage space per email address. This
8 allows users to store a large amount of emails and other related content. Microsoft allows
9 its users, through its mobile services, to access their accounts from any device with
10 Internet access.

11 V. PAST EFFORTS TO OBTAIN EVIDENCE

12 37. I understand that the contents of the SUBJECT EMAIL ACCOUNTS can
13 only be obtained in the Ninth Circuit, by means of a search warrant issued under
14 authority of 18 U.S.C. § 2703(a), 2703(b)(1)(A), 2703(c)(1)(A), and Federal Rule of
15 Criminal Procedure 41(e)(2)(b).

16 38. To my knowledge, there have been no other prior attempts to secure a
17 search warrant to search and seize these records. In May 2019 and February 2020,
18 preservation letters were sent to Google and Microsoft respectively requesting that the
19 contents of the SUBJECT EMAIL ACCOUNTS be preserved, pursuant to 18 U.S.C. §
20 2703(f)(1), for a period of 90 days.

21 VI. GENUINE RISKS OF DESTRUCTION OF EVIDENCE

22 39. Based on my experience and training, it is not uncommon for technically
23 sophisticated criminals to use encryption or programs to destroy data that can be
24 triggered remotely or by a pre-programmed event to keystroke, or other sophisticated
25 techniques to hide data. In this case, the data sought is stored on a server belonging to the
26 Providers. If that data is accessed and deleted by the user, by either deleting the emails or
27 any associated contact lists, the content would not be retrievable. Unlike traditional
28 computer forensics where a hard drive can be searched and deleted documents recovered,

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1 information stored in an enterprise storage system is irretrievable once it has been
2 deleted.

3 **VII. PROTOCOL FOR SORTING SEIZABLE ELECTRONICALLY**
4 **STORED INFORMATION**

5 40. In order to ensure that agents are limited in their search only to the contents
6 of the SUBJECT EMAIL ACCOUNTS and any attachments, stored instant messages,
7 stored voice messages, documents, and photographs associated therewith; in order to
8 protect the privacy interests of other third parties who have accounts with the Providers;
9 and in order to minimize disruptions to normal business operations of Google; this
10 application seeks authorization to permit agents and employees of Google to assist in the
11 execution of the warrant, pursuant to 18 U.S.C. § 2703(g), as follows:

12 a. The search warrants will be presented to Google and Microsoft with
13 direction that it identify and isolate the SUBJECT EMAIL ACCOUNTS and associated
14 records described in Section I of Attachment B.

15 b. Google and Microsoft will also be directed to create an exact
16 duplicate in electronic form of the SUBJECT EMAIL ACCOUNTS and associated
17 records specified in Section I of Attachment B, including an exact duplicate of the
18 content of all email messages stored in the SUBJECT EMAIL ACCOUNTS.

19 c. Google and Microsoft shall then provide an exact digital copy of the
20 contents of the SUBJECT EMAIL ACCOUNTS, as well as all other records associated
21 with the account, to me, or to any other agent of the FBI. Once the digital copies have
22 been received from Google and Microsoft, the copies will, in turn, be forensically imaged
23 and only those images will be reviewed and analyzed to identify communications and
24 other data subject to seizure pursuant to Section II of Attachment B. The original digital
25 copies will be sealed and maintained to establish authenticity, if necessary.

26 d. I, and or other agents of the FBI, will thereafter review the forensic
27 images, and identify from among that content those items that come within the items
28 identified in Section II to Attachment B, for seizure. I, and/or other agents of the FBI,

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1 will then copy those items identified for seizure to separate media for future use in
2 investigation and prosecution. The forensic copies of the complete content of the
3 SUBJECT EMAIL ACCOUNTS will also then be sealed and retained by the FBI, and
4 will not be unsealed absent Court authorization, except for the purpose of duplication of
5 the entire image in order to provide it, as discovery, to a charged defendant.

6 41. Analyzing the data contained in the forensic image may require special
7 technical skills, equipment, and software. It could also be very time-consuming.
8 Searching by keywords, for example, can yield thousands of "hits," each of which must
9 then be reviewed in context by the examiner to determine whether the data is within the
10 scope of the warrant. Merely finding a relevant "hit" does not end the review process.
11 Keywords used originally need to be modified continuously, based on interim results.
12 Certain file formats, moreover, do not lend themselves to keyword searches, as keywords
13 search text, and many common electronic mail, database, and spreadsheet applications
14 (which may be attached to email) do not store data as searchable text. The data is saved,
15 instead, in proprietary non-text format. And, as the volume of storage allotted by service
16 providers increases, the time it takes to properly analyze recovered data increases as well.
17 Consistent with the foregoing, searching the recovered data for the information subject to
18 seizure pursuant to this warrant may require a range of data analysis techniques and may
19 take weeks or even months.

20 42. Based upon my experience and training, and the experience and training of
21 other agents with whom I have communicated, it is necessary to seize all emails, chat
22 logs and documents, that identify any users of the SUBJECT EMAIL ACCOUNTS and
23 any emails sent or received in temporal proximity to incriminating emails that provide
24 context to the incriminating communications.

25 43. All forensic analysis of the image data will employ only those search
26 protocols and methodologies reasonably designed to identify and seize the items
27 identified in Section II of Attachment B to the warrant.
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VIII. FACTUAL BASIS FOR SEALING AND NON-DISCLOSURE

44. ELLIOTT's current whereabouts are unknown and poses a threat to the community. Premature notification of this investigation could cause flight from prosecution, risk destruction of or tampering of evidence or otherwise seriously jeopardize this investigation. *See* 18 U.S.C. § 2705(b). Some of the evidence in this investigation is stored electronically. If alerted to the existence of the warrant, the subjects under investigation could destroy that evidence, including information saved to their personal computers. In this case, the requested non-disclosure and sealing orders would be appropriate because the search warrant relates to an ongoing criminal investigation that is neither public nor known to ELLIOTT, and its disclosure may alert ELLIOTT to the ongoing investigation.

IX. CONCLUSION

45. Based upon the evidence gathered in this investigation as set out above, including but not limited to my review of data and records, information received from other law enforcement agents, and my training and experience, there is probable cause to believe that evidence, fruits and/or instrumentalities of the crimes of 18 U.S.C. §§ 2241(c)(Aggravated Sexual Abuse of a Child under 12), 2244(a)(5)(Abusive Sexual Contact of a Child under 12), 2243(a)(1)(Sexual Abuse of a Minor), 3261 (Military Extraterritorial Jurisdiction Act--"MEJA") and 3238 (MEJA Venue) exist and will be found in the electronically stored information or communications contained and associated with the SUBJECT EMAIL ACCOUNTS, and any attachments, stored instant messages, stored voice messages, documents, and photographs associated therewith, as well as in subscriber and log records associated with the account. Accordingly, by this Affidavit and warrant I seek authority for the government to search all of the items specified in Attachment A and Section I of Attachment B (both of which are attached

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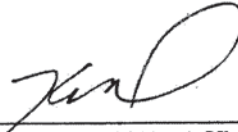
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1 hereto and incorporated by reference herein) to the warrants, and specifically to seize all
2 of the data, documents and records that are identified in Section II of Attachment B.

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6 KYLE MCNEAL, Affiant
7 Special Agent
8 Federal Bureau of Investigation

9 Subscribed and sworn to me by telephone on March 17, 2020.

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11 

12 THERESA L. FRICKE
13 United States Magistrate Judge
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